

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BLACKWELL SPENCER,

Plaintiff,

v.

DEPARTMENT OF CORRECTIONS
et al.

Defendants.

CASE NO. C12-6026 RJB

ORDER ADOPTING REPORT AND
RECOMMENDATION DISMISSING
ACTION FOR FAILURE TO STATE
A CLAIM

This matter comes before the Court on the Report and Recommendation of Honorable J. Richard Creatura, United States Magistrate Judge. Dkt. 8. The Magistrate Judge recommends that this 42 U.S.C. § 1983 civil rights action be dismissed for failure to state a claim. Dkt. 8. Plaintiff has filed an objection in which he does not dispute the analysis of the Magistrate Judge, but requests additional time to research his case. Dkt. 9. The Court has considered the Report and Recommendation, Plaintiff's objections, and the remaining record.


As detailed in the Report and Recommendation, the allegations in Plaintiff's complaint do not allege a violation of a constitutional right. Dkt. 8 pp. 1-2. The Court entered an order to

1 show cause order allowing Plaintiff the opportunity to cure his complaint or demonstrate
2 why this action should not be dismissed for failure to state a claim. Dkt. 5. Plaintiff's
3 response was unpersuasive. Dkt. 8 pp, 2-3. Nor is Plaintiff's request for additional time.

4 The Court, having reviewed the Report and Recommendation, the objections thereto
5 and the remaining record, does hereby find and **ORDER**:

- 6 1. The Court adopts the Report and Recommendation (Dkt. 8);
7 **2.** Plaintiff's request for additional time (Dkt. 9) is **DENIED**.
8 **3.** This action is **DISMISSED** prior to service for failure to state a claim. The
9 dismissal is a strike as defined in 28 U.S.C. § 1915(g).
10 **4.** The Clerk is directed to send copies of this Order to Plaintiff, counsel for any
11 Defendants who have appeared, and to the Hon. J. Richard Creatura.

12 Dated this 5th day of February, 2013.

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15 ROBERT J. BRYAN
16 United States District Judge
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